

## National Science Foundation

## § 681.3

### § 681.2 Definitions.

For the purposes of this part—

*ALJ* means an Administrative Law Judge in the authority appointed pursuant to section 3105 of title 5 or detailed to the authority pursuant to section 3344 of title 5.

*Authority* means the National Science Foundation.

*Authority head* means the Director of the National Science Foundation or the Director's designee.

*Benefit* is intended to cover anything of value, including but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

*Claim* is defined in section 3801(a)(3) of title 31 of the United States Code.

*Complaint* means the administrative complaint served by the reviewing official on the defendant under § 681.8.

*Defendant* means any person alleged in a complaint under § 681.7 to be liable for a civil penalty or assessment pursuant to PFCRA.

*Government* means the United States Government.

*Individual* means a natural person.

*Initial decision* means the written decision of the ALJ required by § 681.33, and includes a revised initial decision issued following a remand or a motion for reconsideration.

*Investigating official* means the NSF Inspector General or an employee of the Office of Inspector General designated by the Inspector General.

*Knows or has reason to know* is defined in section 3801(a)(5) of title 31 of the United States Code.

*Makes* shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, making or made shall likewise include the corresponding forms of such terms.

*Person* means any individual, partnership, corporation, association, or private organization, and includes the plural of that term.

*Representative* means an attorney who is in good standing of the bar of any State, Territory, or possession of the United States, or of the District of Columbia, or the Commonwealth of Puerto Rico, or any other individual designated in writing by the defendant.

*Reviewing official* means the General Counsel of NSF or the General Counsel's designee.

*Statement* is defined in section 3801(a)(9) of title 5 of the United States Code.

### § 681.3 What is the basis for the imposition of civil penalties and assessments?

(a) *Claims.* (1) Any person shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each claim if that person makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such a claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision of a State, acting for or on behalf of NSF.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section may also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be